

1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 011479
JASON F. CARR
3 Assistant Federal Public Defender
Nevada State Bar No. 006587
4 411 E. Bonneville Avenue, Ste. 250
Las Vegas, Nevada 89101
5 (702) 388-6577
(702) 388-6261 (FAX)
6 jason_carr@fd.org

7 Counsel for Supervised Releasee and Defendant **Isaacs**

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 * * *

11 UNITED STATES OF AMERICA,

2:05-cr-00104-RCJ

12 Plaintiff - Appellee,

**MOTION TO SPREAD MANDATE ON
THE RECORD**

13 vs.

14 LEAJON RAYMOND ISAACS,

15 Defendant -Appellant.
16

17 COMES NOW Defendant, and previous Appellant, Leajon Raymond Isaacs, pursuant Federal
18 Rules of Appellate Procedure 36 and 41, hereby requests this Court spread the mandate on the record
19 and set this matter for resentencing. Further, Isaacs requests this Court orders his transport to, and
20 appearance at, the resentencing.

21 On December 30, 2013, the United States Court of Appeals for the Ninth Circuit reversed and
22 remanded this matter for resentencing on Isaac's admitted violations of the terms of supervised release.
23 *See United States v. Isaacs*, slip. op. 13-10086, 2013 WL 6841810 (9th Cir. Dec. 30, 2013)
24 (unpublished). Isaacs contended on appeal that this Court violated his due process rights by basing his
25 Court's statutory maximum term of imprisonment and renewed term of supervised release sentence, at
26 least in part, on unproven allegations in the revocation petition to which Isaacs did not admit. The Ninth
27 Circuit agreed and vacated and remanded the matter for resentencing because it is not clear from the
28 record the extent to which this Court's sentence was demonstrably based upon the unproven state and

1 federal law violations, as opposed to the three admitted drug violations. (*See also* trial court clerk's
2 record (CR) 138 (entry for the Ninth Circuit's memorandum decision).)

3 Pursuant to Federal Rule of Appellate Procedure 41(a), the Ninth Circuit's normally consists of
4 the certified copy of the judgment, a copy of the court's opinion, and any direction about costs (not
5 applicable here). Barring application for an extension or a stay, the Ninth Circuit's mandate issues seven
6 days after the time to file a petition for rehearing expires, or seven days after entry of an order denying
7 a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate,
8 whichever is later. *See* Fed. R. App. P. 41(b); *see also United States v. Rojas*, 574 F.2d 476, 476 (9th
9 Cir. 1978) (explaining that timing deadlines recommence in the district court "with the receipt of the
10 mandate, or, if the mandate is formally spread, from the spreading [of the mandate]").

11 The Ninth Circuit entered its mandate reversing Isaacs' sentence on January 23, 2014. (*See* CR
12 139.) Isaacs now requests this Court spread this mandate on the record and order a resentencing.
13 Further, that the U.S. Marshal Service be ordered to transport Isaacs to the resentencing and that Isaacs
14 appear at the Nevada Southern Detention Center no later than five days before the scheduled
15 resentencing date so that Isaacs may confer with counsel prior to the hearing.

16 Finally, this Court should order the United States Probation Office acquire the Federal Bureau
17 of Prisons Progress Report so that this Court and all involved parties may gauge Isaacs progress since
18 this Court's original pronouncement of sentence.

19 The resentencing hearing will only consist of determining the appropriate sentence for Isaacs
20 given the parties' stipulated range of between thirty and thirty-six months. There is also an agreement
21 as to the appropriate renewed term of supervised release that this Court should consider in fashioning
22 the least restrictive sentence necessary to meet the appropriate supervised release and 18 U.S.C.
23 § 3553(a) sentencing factors.

24 DATED this 26th Day of February 2014.

25 RENE L. VALLADARES
26 Federal Public Defender

27 ORDER

28 By: /s/ Jason F. Carr
JASON F. CARR
Assistant Federal Public Defender

IT IS SO ORDERED this 15th day of April, 2014.

ROBERT C. JONES